

**FILED**

NOV 01 2012

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

LAW OFFICE OF JOSEPH P. SCULLY, P.C.  
JOSEPH P. SCULLY (Bar No. 155738)  
879 W. 190<sup>TH</sup> STREET, SUITE 400  
GARDENA, CALIFORNIA 90248  
Tel. (310) 217-4143  
Fax (310) 329-4151

Attorney for  
CRITICAL SOLUTIONS PROTECTIVE  
SERVICES GROUP, INC.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

11	UNITED STATES OF AMERICA,	)	CASE NO. C-10-00547 CRB
12	Plaintiff,	)	
13	v.	)	DECLARATION OF ADAM BERCOVICI IN
14	SAMUEL COHEN, a/k/a Mouli Cohen	)	OPPOSITION TO MOTION BY STACY
15	Defendant.	)	COHEN FOR ORDER AMENDING BAIL
16		)	SETTING ORDER [Docket Entry No. 196]
17		)	
18		)	DATE: NOVEMBER 14, 2012
19		)	TIME: 2:00 P.M.
20		)	LOC.: COURTROOM 6

HON. CHARLES R. BREYER

I, ADAM BERCOVICI, declare as follows:

1. I am over the age of 18 and of sound mind. I am one of the principals and owners of Critical Solutions Protective Services Group, Inc. (hereafter "Critical Solutions"). I was personally involved with all aspects concerning the management of the security detail for Samuel Cohen. I have personal knowledge of the facts stated herein, and if called upon as a witness, I could testify competently to the facts stated herein. I am making this declaration in opposition to the motion by Stacy Cohen, purported wife of defendant Samuel Cohen, for an order amending the Court's August 26, 2011 Order Setting Bail to obtain a refund of amounts paid to Critical Solutions.

1           2.       Between the date of the Court's August 26, 2011 Order Setting Bail, and the  
2 Court's November 9, 2011 Order of Remand, Samuel Cohen spent a total of 47 days, inclusive,  
3 in the custody of Critical Solutions. As originally conceived between Critical Solutions and  
4 defense counsel Gary Lincenberg, Mr. Cohen's bail detail was to be a simple matter: One off-  
5 duty armed police officer, 24 hours per day. That was the basis of the September 12, 2011  
6 invoice which the moving party attached to her motion as Exhibit A. (Note: this invoice was  
7 dated September 12, 2011, several days before Mr. Cohen was actually released into the custody  
8 of Critical Solutions.) No extra costs were included, and no extra services were provided for nor  
9 anticipated. According to Mr. Lincenberg, there would be no need for any management or  
10 oversight fee because the Cohen security detail was to be simple and straight-forward.

11           3.       The reality of the Cohen security detail was that it was anything but simple and  
12 straight-forward. From the moment he was first released, Mr. Cohen made repeated, vociferous  
13 and incessant demands that Critical Solutions modify, change and alter the terms of his pre-trial  
14 security provisions. I was personally and intimately involved with Mr. Cohen on these issues.  
15 For example, during the months of September and October, Mr. Cohen (and often Stacy Cohen  
16 as well) made it his daily practice to call me by telephone and haggle, cajole and harangue me  
17 literally for up to 3-6 hours per day, with 7-10 calls per day. On one day, he called me 16  
18 separate times. The purpose of these calls was to complain and to demand changes to his  
19 security detail.

20           4.       The Court's September 22, 2001 Order Amending Bail Order reflects a small  
21 number of the types of changes to his security detail that Mr. Cohen demanded. The subject  
22 Order permits Mr. Cohen to visit the gym, to attend religious services, and to see his dentist, his  
23 dermatologist, and an ENT specialist. Of course, Mr. Cohen also met regularly with his  
24 attorneys. According to the September 22, 2011 Order, if Mr. Cohen is guarded by a single  
25 Critical Solutions guard, he must remained handcuffed while in public places, but he may be  
26 uncuffed if there are two Critical Solutions guards present. Mr. Cohen did not want to be  
27 handcuffed in public, so the single guard detail almost immediately became a two guard detail at  
28 least during the daylight hours.

1           5.       According to the moving papers, Stacy Cohen claims she paid Critical Solutions  
2 an initial \$75,000, and then paid an additional \$45,000 after the Court released Mr. Cohen a  
3 second time (after he tried to bribe one of Critical Solutions' guards). Critical Solutions agrees  
4 that those payments, totaling \$120,000, were made. As stated above, the initial \$75,000 payment  
5 was based upon a simple detail consisting of one off duty police officer, 24 hours per day. But as  
6 the Court's September 22, 2001 Order reflects, Mr. Cohen's detail quickly became a two guard  
7 detail (during daylight hours) to accommodate his preference that he not be handcuffed while in  
8 public. In addition, Critical Solutions incurred huge management oversight expenses because I  
9 was forced to deal with Mr. Cohen exclusively (i.e., to the exclusion of Critical Solutions' other  
10 clients) for up to 10 to 12 hours per day. Those management fees were not anticipated and were  
11 therefore not reflected in moving party's Exhibit A, the September 12, 2011 invoice.

12           6.       In addition, Critical Solutions also had significant expenses which were not  
13 anticipated and therefore not initially charged. For example, Mr. Cohen initially wanted to be  
14 transported in Stacy Cohen's two-door Mercedes coupe. This presented an unacceptable security  
15 risk, and I refused. Critical Solutions was forced to rent a Jeep Grand Cherokee at a cost of \$300  
16 per week, and also to pay for the vehicle's fuel. Also, for example, Critical Solutions was forced  
17 to purchase and install an alarm (cost \$2,950) at the house in San Francisco where Mr. Cohen  
18 resided during the trial. Critical Solutions was required to fly a man to San Francisco to set up  
19 the Northern California security detail, which trip included airfare, per diem, hotel, taxis, salary  
20 and miscellaneous expenses, totaling \$1,650.

21           7.       In addition, because of Mr. Cohen's constant demands, and changes to the  
22 schedule and to his preferences, Critical Solutions also incurred overtime payments to its guards.  
23 For example, if Mr. Cohen decided at the last minute that he wanted to visit his attorneys, the  
24 security detail guarding Mr. Cohen was required to stay with him incurring overtime pay, while  
25 the relief security detail waited at Mr. Cohen's home. This happened occasionally, but it was  
26 still an expense that was not originally planned for.

27           8.       Attached hereto as Exhibit 1 is a true and correct copy of an email I sent to Gary  
28 Lincenberg, Benjamin Lichtman, Allen Lew and others. This email is dated October 14, 2011,

1 2011, and it reflects some of the problems with billing that occurred on the Cohen security detail.  
2 As noted in this email, I was dealing directly with Mr. Cohen on the billing issues. In particular,  
3 all of the foregoing issues of costs and overtime and extra guards were issues that I discussed  
4 with Mr. Cohen. In general, he was extremely difficult to deal with and he required me to spend  
5 excessive time arguing and disputing issues with him.

6 9. The billing arguments that I had with Mr. Cohen came to head on or about  
7 October 24, 2011, because on that date I presented Mr. Cohen with two invoices, including one  
8 for advance payment for the month of November, 2011. The very next day, Mr. Cohen offered a  
9 \$10,000 bribe to Critical Solutions' security detail manager Willie McDaniel. Mr. Cohen offered  
10 to pay \$10,000 to Mr. McDaniel if he would agree to work for Mr. Cohen and not Critical  
11 Solutions. Mr. McDaniel reported that bribery attempt to me and as a result the Court ordered  
12 Mr. Cohen to be taken into custody on October 25, 2011.

13 10. The central premise of Stacy Cohen's motion seems to be that Critical Solutions'  
14 billing to Mr. Cohen was based on the September 12, 2011 invoice (moving papers, Exhibit A).  
15 That premise is in error. That invoice was issued before Mr. Cohen was released, and was only  
16 an estimate based on the original "simple" model of the Cohen security detail. However, that  
17 original "simple" model never was used, because Mr. Cohen demanded changes as described  
18 above. As a result of those changes, Critical Solutions' costs and expenses and charges were  
19 increased dramatically. Critical Solutions submitted numerous invoices to Mr. Cohen which  
20 included the increased costs, fees and expenses. Some of them were paid, but many were not.  
21 Ultimately, Critical Solutions made the decision to accept the \$75,000 payment that Mr. Cohen  
22 initially made, and the \$45,000 payment that he made in compliance with the Court's October  
23 28, 2011 Second Order Setting Bail. If Critical Solutions had billed Mr. Cohen for all the  
24 services he actually received, his bill would have far exceeded the \$120,000 which Mr. Cohen  
25 paid.

26 11. For example, Mr. Cohen paid \$45,000 on or about October 28, 2011 when he was  
27 released from custody after his attempted bribery. A condition of his release in the Court's  
28 October 28, 2011 Second Order Setting Bail was that Mr. Cohen be guarded 24/7 by three armed



1 guards from Critical Solutions. The cost of the 3 Court-ordered guards was \$3,600 per day (\$50  
2 per hour x 3 guards x 24 hours = \$3,600). Mr. Cohen was remanded after his conviction on  
3 November 9, 2011 (not November 7, 2011 as Stacy Cohen claims), meaning he was guarded 11  
4 days @ \$3,600 per day for a total of \$39,600. In addition, car rental was \$300 per week, fuel  
5 \$100 per week, and management fees of \$6,700, bringing the total expense to Mr. Cohen to  
6 \$47,100. He paid only \$45,000 so he got off without paying everything he owed.

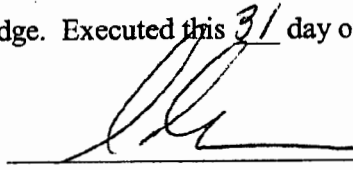
7 12. Similarly, the \$75,000 which Mr. Cohen paid initially is accounted for by virtue of  
8 the level of services which Mr. Cohen received. Specifically, Mr. Cohen was in the custody of  
9 Critical Solutions for 36 days (from September 20, 2011 through October 25, 2011, inclusive).  
10 A single guard costs \$1,200 per day, and the extra guard for Mr. Cohen was on duty 9 hours per  
11 day, costing \$450 per day. So total guard costs based on normal wages was \$59,400 (\$1,650 per  
12 day x 36 days = \$59,400). In addition, Mr. Cohen incurred the following expenses: car rental  
13 \$1,500 (5 weeks @ \$300); fuel \$500 (5 weeks @ \$100); management fee \$18,000 (36 days @  
14 \$500); guard overtime pay \$3,000; costs to have guards on stand-by from 8/28 through 9/20,  
15 \$4,400; and miscellaneous un-reimbursed expenses \$5,000, for a total of \$87,400. Based on this  
16 accounting, Mr. Cohen owes Critical Solutions a minimum of \$18,900.

17 13. Regarding management fees, the foregoing accounting is based on a management  
18 fee of \$500 per day. Originally, my understanding with Bird, Mirella was that virtually no  
19 management of this security detail was required, and therefore no management fee was included  
20 in the initial invoice. As noted, the original plan was torn up once Mr. Cohen was released. I  
21 was forced to be on duty virtually 24 hours per day, taking as many as 10 difficult phone calls per  
22 day from both Mr. Cohen and Stacy Cohen. This was constant for the duration of the time he  
23 was in Critical Solutions' custody. Initially, Bird, Mirella had represented to me that Mr. Cohen  
24 was not a flight risk, and the security detail would be quite easy. However, I learned from the  
25 U.S. Attorney that Mr. Cohen was an extreme flight risk. As a retired law enforcement  
26 professional, I took my duties and obligations to the Court quite seriously. Therefore, I was  
27 required to spend huge amounts of time and effort managing the Cohen security detail. If I were  
28 asked today to manage a detail similar to what was required with Mr. Cohen, I would demand at

1 least \$1,000 per day. Therefore, the charge of \$500 per day for the amount of time and effort that  
2 was required to manage a detail with people as difficult and as manipulative as Mr. Cohen and  
3 Stacy Cohen is, in fact, a bargain. Lastly, note that the \$6,700 management fee mentioned in  
4 paragraph 11, above, included my management fee of \$5,500 (11 days @ \$500) plus the  
5 management fee paid to Mr. McDaniel which was \$600 per week, and including all the  
6 scheduling and supervision for the three security officers per day.

7 14. For all the reasons stated herein, Critical Solutions is opposed to Stacy Cohen's  
8 motion. Mr. Cohen paid far less than what he rightfully should have paid. There is no basis for  
9 Stacy Cohen to receive any refund from Critical Solutions. For this reason, Critical Solutions  
10 respectfully requests the Court to deny her motion.

11 I declare under the penalty of perjury under the laws of the United States that the  
12 foregoing is true based on my own personal knowledge. Executed this 31 day of October, 2012,  
13 at Valencia, California.

14   
15 Adam Bercovici  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

## Joe Scully

---

**From:** Adam Bercovici <abercovici@criticalsolutionspsg.com>  
**Sent:** Wednesday, October 31, 2012 9:53 AM  
**To:** Joe Scully  
**Subject:** Fwd: Cohen

----- Forwarded message -----

**From:** Adam Bercovici <abercovici@criticalsolutionspsg.com>  
**Date:** Fri, Oct 14, 2011 at 9:10 AM  
**Subject:** Cohen  
**To:** "Gary S. Lincenberg" <gsl@birdmarella.com>, "Benjamin D. Lichtman" <bdl@birdmarella.com>  
**Cc:** allen\_lew@canpt.uscourts.gov, "Donohue, Christopher M." <Christopher.Donohue@ic.fbi.gov>, Randy Hoffmaster <rhoffmaster@criticalsolutionspsg.com>, Willie Mc Daniel <mcdanielwillie@sbcglobal.net>

Gary,Ben: I dealt with Mouli on some invoicing issues today and he is once again being difficult to deal with. As I stated he owes us \$2680 for additional guard services and the travel to LA that we provided for he and Stacy. This has to be paid to us by Tuesday. We are at the point where this is untenable and requiring us to spend needles time negotiating with Mouli on financial issues. As in your business time is money and I have not even begun to calculate what that is in terms of this project. When you and I began this project it was very simple and I believe that we figured it to the letter to accommodate the basis requirements of what you needed to have access to your client. Now, every day it something different with Mouli.

He wants half days, no overtime, travel to LA, get him dinner, you name it. For several weeks we dealt with you on financial issues, now we deal with Mouli,. Now he want me to deal with you. In our business and as stated in the court order, we are paid in advance. That means for extra services. I believe that we are at the point where the best course of action is to go back to the judge and put all the costs that are required on the table, get another advance to pay for all of these additional requests and allow us to do our job without this bickering. At this point my only choice is to, starting the 24th, go back to basic service, with one guard transporting Mouli in handcuffs to court every day. At that I will not ask for payment, but will direct Mr. McDaniel to transport Mouli in the one guard configuration. I have cc's pre-trial to make them aware of this.

I also anticipate that in three weeks ( if the trial continues) we will need another advance for basic services as agreed in the Court Order. The last thing that we want to be doing is haggling over this while you are in trial. Lets get this figured out now.

Adam

--

Adam Bercovici  
Principal, Chief Executive Officer  
25379 Wayne Mills Place Suite 187  
Valencia, CA 91355  
Direct: 661-607-4324

Corporate: 800-278-4575

Fax: 866-403-3260

Email: abercovici@criticalsolutionspsg.com

www.criticalsolutionspsg.com

A CALIFORNIA LICENSED SECURITY FIRM

PPO 16754

--

Adam Bercovici

President and Chief Executive Officer

25379 Wayne Mills Place Suite 187

Valencia, CA 91355

Direct: 661-607-4324

Corporate: 800-278-4575

Fax: 866-403-3260

Email: abercovici@criticalsolutionspsg.com

www.criticalsolutionspsg.com

A CALIFORNIA LICENSED SECURITY FIRM

PPO 16754



**PROOF OF SERVICE**

I am employed in the City and County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is Law Offices of Joseph P. Scully, P.C., 879 W. 190<sup>th</sup> Street, Suite 400, Gardena, California 90248.

On October 31, 2012, I served the attached document(s) attached hereto and described as: DECLARATION OF ADAM BERCOVICI IN OPPOSITION TO MOTION BY STACY COHEN FOR ORDER AMENDING BAIL SETTING ORDER [Docket Entry No. 196] on the interested parties, by placing in a sealed envelope(s) addressed as follows:

Ronald P. Goldman, Esq.  
Robert V. Good, Esq.  
The Goldman Law Firm  
Merchant Bank Building  
55 Main Street  
Tiburon, California 94929

Benjamin D. Lichtman, Esq.  
Gary S. Lincenberg, Esq.  
Bird, Marella, Boxer, Wolpert, Nessim, Drooks &  
Lincenberg,  
1875 Century Park East, 23<sup>rd</sup> Floor  
Los Angeles, CA 90067

Lyn R. Agre, Esq.  
Daniel F. Cook, Esq.  
Jacob N. Foster, Esq.  
Kasowith, Benson, Torres & Friedman, LLP  
101 California Street, Suite 2300  
San Francisco, CA 94111

Hallie Mitchell Hoffman, Esq.  
USAO, Northern District of California  
450 Golden Gate Avenue  
San Francisco, CA 94102

Jeffrey R. Finigan, Esq.  
United States Attorney's Office  
450 Golden Gate Avenue, 11<sup>th</sup> Floor  
San Francisco, CA 94102

Steve G. Kalar, Esq.  
Federal Public Defender's Office  
450 Golden Gate Avenue, 19<sup>th</sup> Floor  
San Francisco, CA 94102

☐

**VIA OVERNIGHT MAIL:**

VIA : By delivering such documents to an overnight mail service or an authorized courier in an envelope or package designated by the express service courier addressed to the person(s) on whom it is to be served.

☒

**VIA U.S. MAIL:**

I am readily familiar with the firm's practice of collection and processing of correspondence for mailing. Under that practice such envelope(s) would be deposited with the U.S. postal service on October 31, 2012 with postage thereon fully prepaid, at Gardena, California.

☐

**VIA PERSONAL DELIVERY:**

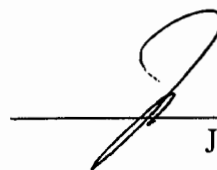
I personally delivered such envelope(s) by hand to the offices of the addressee pursuant to CCP § 1011.

☐

**VIA FACSIMILE:**

By transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m. 818-501-2985

I declare under penalty of perjury under the laws of the United States that the above is true and correct and was executed on October 31, 2012, at Gardena, California.



Joseph P. Scully